

## REMARKS

Claims 1-2, 4-8 and 11-13 and 15, 16 and 25 remain in the application. Claims 10 and 14 have been canceled. Independent claims 1 and 11 have been amended to include the limitations of wherein the gate region comprises a metal gate directly disposed on a high k dielectric layer, and wherein the metal gate comprises at least one of platinum, ruthenium and palladium, and wherein a spacer is in direct contact with the metal gate. Support for this amendment can be found in paragraph 17 and FIG. 1a, for example. No new subject matter has been added with these amendments.

### A. 35 U.S.C. § 103(a)

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Claims 1-2, 4-5, 7-8, 11-16 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tsukamoto (6,040,224) in view of Yu (6,495,437). The Office contends it would have been obvious (to which the Applicants do not concede) to combine Yu's teachings with Tsukamoto's invention.

However, independent claims 1 and 11 have been amended to include the limitations described above. "To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." In *re Royka*, 490 F.2d 981, 180 USPQ

580 (CCPA 1974). Because neither Tsukamoto nor Yu teach nor even suggest the limitations of amended claims 1 and 11, claims 1 and 11 are not rendered obvious by either Tsukamoto or Yu. Since the dependent claims are not rendered obvious for at least the reasons the independent claims from which they depend are not anticipated, the dependent claims will not be argued at this time. Thus, reconsideration and withdrawal of the Section 103(a) rejection of claims 1-2, 4-5, 7-8, 11-16 and 25 is respectfully requested.

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Tsukamoto (6,040,224) in view of Yu (6,495,437), and further in view of Goto. The Office contends it would have been obvious (to which the Applicants do not concede) to pulse the laser beam for 20 ns or less, as in Goto.

However, independent claim 1 has been amended to as described above. Because neither Tsukamoto, Yu or Goto teach or even suggest the limitations of amended claim 1, from which claim 6 depends, claim 6 is not rendered obvious by Tsukamoto, Yu or Goto. Thus, reconsideration and withdrawal of the Section 103(a) rejection of claim 6 is respectfully requested.

Claims 1-2, 4-5, 7-8, 11-16 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Zhang (6,040,224) in view of Yu (6,495,437). The Office contends it would have been obvious (to which the Applicants do not concede) to combine Yu's teachings with Tsukamoto's invention.

However, independent claims 1 and 11 have been amended to as described above. Because neither Zhang or Yu teach or even suggest the limitations of amended claims 1 and 11, claims 1 and 11 are not rendered obvious by Zhang in view of Yu. Since the dependent claims

are not rendered obvious for at least the reasons the independent claims from which they depend are not anticipated, the dependent claims will not be argued at this time. Thus, reconsideration and withdrawal of the Section 103(a) rejection of claims 1-2, 4-5, 7-8, 11-16 and 25 is respectfully requested.

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Zhang (6,040,224) in view of Yu (6,495,437), and further in view of Goto. The Office contends it would have been obvious (to which the Applicants do not concede) to pulse the laser beam for 20 ns or less, as in Goto.

However, independent claim 1 has been amended to as described above. Because neither Zhang, Yu or Goto teach or even suggest the limitations of amended claim 1, from which claim 6 depends, claim 6 is not rendered obvious by Zhang, Yu or Goto. Thus, reconsideration and withdrawal of the Section 103(a) rejection of claim 6 is respectfully requested.

In view of the foregoing remarks, the Applicants request allowance of the application. Please forward further communications to the address of record. If the Examiner needs to contact the below-signed Attorney to further the prosecution of the application, the contact number is (480) 715-5488.

Respectfully submitted,

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